

## COASTAL CONSERVANCY

Staff Recommendation

June 25, 2015

### GALLAGHER RANCH CONSERVATION EASEMENT

Project No. 15-012-01

Project Manager: Su Corbaley

**RECOMMENDED ACTION:** Authorization to disburse up to \$475,000 to the Marin Agricultural Land Trust for the acquisition of a conservation easement over the 330-acre Gallagher Ranch in west Marin County.

**LOCATION:** 1.5 miles east of Point Reyes Station, Marin County (Exhibit 1)

**PROGRAM CATEGORY:** Preservation of Coastal Agriculture

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#### **EXHIBITS**

Exhibit 1: [Project Location and Site Map](#)

Exhibit 2: [MALT Protected Lands](#)

Exhibit 3: [Creek Conservation Area](#)

Exhibit 4: [Project Photos](#)

Exhibit 5: [Critical Linkage Map](#)

Exhibit 6: [Project Letters](#)

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#### **RESOLUTION AND FINDINGS:**

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31150-31156 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes the disbursement of an amount not to exceed four hundred seventy-five thousand dollars (\$475,000) to the Marin Agricultural Land Trust for the acquisition of an agricultural conservation easement over the 330-acre Gallagher Ranch property (Marin County Assessor’s Parcel No. 119-050-17), subject to the following conditions:

1. Prior to the disbursement of any Conservancy funds for acquisition, the Marin Agricultural Land Trust shall:
    - a. Submit for review and approval of the Executive Officer of the Conservancy (the “Executive Officer”), all relevant acquisition documents, including, without limitation, appraisals, purchase agreements, conservation easements, escrow instructions and documents of title;
    - b. Submit for review and approval of the Executive Officer a Baseline Conditions Report
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- certified by the grantor and a Monitoring and Reporting Plan; and
- c. Provide written evidence to the Executive Officer that all other funds necessary to the acquisition have been obtained.
  2. The purchase price of the conservation easement shall not exceed fair market value, as established in an appraisal approved by the Executive Officer of the Conservancy.
  3. The easement interest acquired under this authorization shall be managed and operated in a manner consistent with the purposes of agricultural conservation, open space preservation and natural resource protection. The property interests acquired under this authorization shall be permanently dedicated to those purposes in accordance with Public Resources Code Section 31116(b).
  4. Conservancy funding shall be acknowledged by erecting and maintaining on the property a sign, the design and placement of which has been reviewed and approved by the Executive Officer.”

Staff further recommends that the Conservancy adopt the following findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed authorization is consistent with Chapter 4 of Division 21 of the Public Resources Code, regarding the preservation of agricultural lands.
2. The proposed project is consistent with the current Conservancy Project Selection Criteria and Guidelines.
3. The Marin Agricultural Land Trust is a nonprofit organization existing under Section 501(c)(3) of the U.S. Internal Revenue Code, whose purposes, which include the preservation of land for agricultural and open space uses, are consistent with Division 21 of the Public Resources Code.”

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## **PROJECT SUMMARY:**

The proposed project would enable the Marin Agricultural Land Trust (MALT) to acquire an agricultural conservation easement over the 330-acre Gallagher Ranch in west Marin County. Located approximately 1.5 miles inland from Point Reyes Station, the ranch is almost completely surrounded by protected lands and significant habitat, with the MALT-protected Black Mountain Ranch to the north and the Golden Gate National Recreation Area to the south, and nearly two miles of the “North Bend” of Lagunitas Creek along portions of its boundary (Exhibits 2 and 3).

The Gallagher Ranch is comprised of a single legal lot, that based on current zoning, could be developed into five large estate home sites. It is owned by the Gallagher Family, LLC, which is a consortium of five cousins. Two of the family members, who inherited a 50 percent interest in the ranch from their parents are fourth-generation Marin County ranchers and are interested in continuing the ranch operations. One lives on the ranch with his wife and handles the day-to-day management of the property while the other manages the business side of running the ranch. Currently the property is used by a lessee for dairy heifer grazing and silage production. The sale of a conservation easement to MALT would enable the brothers to buy out their cousins’ interest

in the property. The cousins, who comprise the other 50 percent stock ownership of the LLC, do not want to invest in the upkeep and management of the ranch and, if the MALT easement does not go through, will force the sale of the property which would most certainly take it out of agriculture production. Because it is not enrolled in a Williamson Act contract, development and conversion out of agricultural use could commence almost immediately upon sale. The threat of sale is real. The ranch was featured in a story in the San Francisco Chronicle's real estate section on January 27, 2012, and the family has received over-market-rate offers from out-of-state investors as recently as January 2015. An easement is needed to stop the sale of the property for likely development, preserve the agriculture and open space scenic values, and protect the natural resources throughout the property.

While still in draft form, the proposed Gallagher Ranch easement will comply with the easement standards adopted by the Conservancy on May 24, 2007 (the "easement standards"). In particular, the easement will require that a baseline report and monitoring plan that are consistent with the easement standards be prepared and approved by the Conservancy prior to close of escrow, and the easement will contain all essential provisions required by the easement standards.

The conservation easement will also generally restrict future uses of the Gallagher Ranch to agricultural and existing residential uses; prohibit subdivision of the land; prohibit recreational off-road vehicle riding; restrict tree harvesting or removal within specified distances (depending on slope) from the banks of creeks without prior approval of MALT; protect the natural resources on the property; prohibit dumping of wastes, refuse, or debris; bar practices that cause soil degradation or reduced water quality; restrict surface alteration or excavation; and impose stricter limitations within a 50-foot setback Creek Conservation Area (CCA) along Lagunitas Creek (Exhibit 3). The easement will require that a Creek Conservation Area Management Plan (CCAMP), intended to protect the riparian areas, be prepared and approved by the Conservancy prior to the close of escrow.

Finally, the easement will include an affirmative agriculture clause that will require continuous, productive agricultural use of the property. This provision will also require an Agricultural Management Plan (AMP) that will be written by a certified rangeland manager and approved by MALT and the funding agencies. If the landowner finds that it is unable to carry on productive agricultural uses of the property according to the AMP, the clause allows for possible changes in the AMP if approved by MALT, or if not, then requires that a suitable third party (such as a lessee) be located to carry on productive agricultural uses.

MALT is a nonprofit 501(c)(3) organization whose purpose is farmland preservation. Since 1980, when it was founded by a coalition of ranchers and environmentalists to preserve farmland in Marin County, MALT has acquired agricultural conservation easements and permanently protected nearly 48,000 acres of land on 75 family farms and ranches.

**Site Description:** The Gallagher Ranch is located 1.5 miles east of Point Reyes Station on Point Reyes-Petaluma Road. It consists of 330-acres of which approximately half is open grassland, used under lease by a local dairy operator for grazing and growing hay silage (18 acres). The remainder of the property consists of steep hillsides and ravines rich in natural resources including a stand of second growth redwoods and bay/montane hardwood forest. Infrastructure improvements include the historical family homestead built in 1875, the operator's family home,

a dairy barn, and associated ranch related outbuildings. There is ample water supply provided by onsite wells. See Exhibit 4 for photographs of the property.

Many species of insects, as well as numerous birds, reptiles, and mammals are dependent on coastal grasslands like those found on the ranch. The ranch serves as the apex of a v-shaped critical linkage connecting habitat from coastal Marin and Sonoma counties to an inland corridor running to the Petaluma area and beyond to the Saint Helena area (Exhibit 5). The Gallaghers report regular sightings of mountain lions, bobcats, raptors, and waterfowl on the ranch.

The property includes approximately two miles of Lagunitas Creek which provides critical spawning and rearing habitat for Coho salmon and steelhead trout, and spawning ground for Chinook and chum (Dog) salmon, and Pacific lamprey, and is also habitat for the California freshwater shrimp, and river otters. The Lagunitas sub-watershed is the largest drainage to Tomales Bay (a USFWS- designated Wetland of International Importance) and hosts a significant population of wild coho salmon, with some estimates ranging as high as ten percent of the population for the Central California Coast Evolutionarily Significant Unit. The Gallaghers regularly see salmon, trout, and river otters in the creek on their ranch. An early February 2015 spawning survey on Lagunitas Creek noted 131 coho redds, 23 Chinook redds, 70 steelhead redds, 3 chum salmon redds (the highest number in a decade), and the first Pacific lamprey of the season.

**Project History:** As discussed above, in recent years some of the Gallagher Family, LLC stockholders have diminished interest in investing in the upkeep and, ultimately, the operations of the ranch. The lack of capital forced the family to explore selling the property. In 2012, it was listed for sale on the open market and, as recently as January 2015, has received several over-market rate offers from motivated buyers. Two stockholders, Kevin and Paul Gallagher, are determined to retain the property and continue its agricultural operations. MALT has been negotiating the easement acquisition transaction with the Gallagher family generally, and Kevin and Paul Gallagher in particular, for about two years. In late January 2015, Kevin and Paul crafted an agreement with their cousins to purchase the remaining interests in the ranch, subject to the sale of an easement to MALT. In May, MALT signed an option to purchase the easement by the end of October 2015.

MALT's agricultural conservation easement program is part of an overall effort to preserve Marin County's agricultural land. Forty percent, or 120,000 acres, of Marin County's privately owned land is used for agriculture. MALT purchased its first conservation easement in 1983, and now holds 75 agricultural conservation easements. The Conservancy has, since the early 1980s, assisted in protecting, restoring, and enhancing the agricultural and natural resource values of west Marin. In 1983, with support from the Conservancy, MALT acquired its first agricultural easement. Since that time, the Conservancy has granted \$11,459,100 (including \$1,745,000 in Cal-Trans mitigation funds) to MALT to assist in the acquisition of 21 easements protecting 13,595 acres.

## PROJECT FINANCING

Coastal Conservancy	\$475,000
MALT	519,950

Other Funders	490,050
<b>Project Total</b>	<b>\$1,485,000</b>

The proposed funding source for the Conservancy's contribution is the 2009-2010 and 2010-2011 appropriation from Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 for projects within the watersheds of San Francisco Bay Area that drain directly to the coast. This funding source may be used for the protection of coastal watersheds, including projects to prevent contamination and degradation of coastal waters and watersheds and projects to protect and restore the natural habitat values of coastal waters and lands undertaken pursuant the Conservancy's enabling legislation, Division 21 of the Public Resources Code. The acquisition of the easement over the Gallagher Ranch property is consistent with the Conservancy's enabling legislation, as discussed below, and will serve to protect coastal water resources, including Lagunitas Creek watershed habitat and Tomales Bay water quality, and stem development of existing agricultural lands and open space that will provide protection for the waters that cross the property and drain to the Pacific Ocean.

Proposition 84 also requires that for acquisition projects that protect natural resources, the Conservancy assess whether the project meets criteria specified in Section 75071. The proposed acquisition satisfies three of the specified criteria. Specifically, the project will connect with over 100,000 acres of preserved agriculture, protected open spaces and habitat that provide for movement of wildlife. It will contribute to long-term protection of and improvement to the water and biological quality of the Lagunitas Creek, a "priority watershed" which drains to Tomales Bay, also a high priority water body. Furthermore, the project is supported by private matching funds to be provided by MALT to complete the acquisition and provide for stewardship expenses. Finally, as required by Section 75701, Conservancy staff has submitted to the Resources Agency and has posted on the Conservancy's website an explanation as to how the proposed acquisition meets the criteria of that section.

#### **CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:**

The proposed project is undertaken pursuant to Chapter 4 of Division 21 of the Public Resources Code (Sections 31150-31156), which authorizes the Conservancy to undertake projects and award grants to public and private agencies and organizations for the purpose of agricultural preservation.

Consistent with § 31156, the Conservancy is proposing to award a grant to MALT, a nonprofit organization whose primary purpose is the preservation of agricultural lands, which will use the grant to acquire an agricultural conservation easement over land located in the coastal zone of western Marin County. The easement would prevent the loss of agricultural land to other uses, such as development of estate residences.

**CONSISTENCY WITH CONSERVANCY'S 2013  
STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):**

Consistent with **Goal 4, Objective A** of the Conservancy's 2013-2018 Strategic Plan, the proposed project will increase by 330 acres the acreage of significant watershed property protected from development.

Consistent with **Goal 4, Objective B** of the Conservancy's 2013-2018 Strategic Plan, the proposed project will increase by 330 acres the acreage of agricultural conservation easements over key coastal farmlands.

Consistent with **Goal 11, Objective B** of the Conservancy's 2013-2018 Strategic Plan, the proposed project will increase by 330 acres the acreage of regionally significant wildlife habitat and critical corridor in the nine Bay Area counties.

Consistent with **Goal 13, Objective A** of the Conservancy's 2013-2018 Strategic Plan, the proposed project will increase by 330 acres the acreage of protected rangeland in the nine Bay Area counties.

**CONSISTENCY WITH CONSERVANCY'S  
PROJECT SELECTION CRITERIA & GUIDELINES:**

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines, last updated on October 2, 2014, in the following respects:

**Required Criteria**

1. **Promotion of the Conservancy's statutory programs and purposes:** See the "Consistency with Conservancy's Enabling Legislation" section above.
2. **Consistency with purposes of the funding source:** See the "Project Financing" section above.
3. **Promotion and implementation of state plans and policies:** By protecting 330 acres of coastal agricultural lands with significant open space and critical corridor values, the proposed project serves to promote and implement several state plans, including:
  - The 2014 *Safeguarding California: Reducing Climate Risk* update to the 2009 *California Climate Adaptation Strategy* (California Natural Resources Agency), recommends establishing a system of sustainable habitat reserves including federal, state, local and nonprofit protected habitat areas, including conservation easements on working lands. The report places particular emphasis on preserving lands that are contiguous to other protected lands. The report states that conservation easements that accommodate movement and migration of multiple endemic species should be considered "important acquisitions." The report calls the protection of private working lands "a key component of the strategy" because owners of working lands "are often able to effectively and efficiently provide critical habitat." Specifically, the report recommends "reducing the rate of farmland conversion to buffer against climate risks to food production by supporting smart growth and reducing urban sprawl, and supporting farmland conservation."

- *California's Forests and Rangelands 2010 Assessment* (California Department of Forestry and Fire Protection), identifies the value of continued grazing on rangelands throughout California as a tool to protect farmlands. It states that “avoided conversion through conservation easements ....keeps working landscapes contributing to local economies while protecting ecosystem values.”
  - The 2013 Draft of *California @ 50 Million: The environmental Goals and Policy Report* (Governor's Office of Planning and Research) which seeks to “preserve agricultural lands and working landscapes to support the state's agriculture and forestry industries in the most sustainable manner.”
  - *CA Wildlife Action Plan* (California Department of Fish and Wildlife, 2005) recommends that the state partner with federal and local land managers, **land trusts**, and conservancies to secure through....easements.... important habitat linkages and other priority sites that are not now protected.
4. **Support of the public:** The project is supported by State Senator Mike McGuire, State Assemblyman Marc Levine, Congressman Jared Huffman and Marin Resource Conservation District Executive Director Nancy Scolari. See Exhibit 6 for project letters.
  5. **Location:** The proposed project is located within the coastal zone of Marin County.
  6. **Need:** If MALT is unable to secure the funds to purchase the conservation easement, the ranch will be sold on the open market, most likely to an estate buyer. The ranch is not protected by a Williamson Act contract, and if sold it could be converted to residential use within a very short period of time. Conservancy funds will enable MALT to protect this ranch from development and loss of its agricultural productivity.
  7. **Greater-than-local interest:** Agricultural land in Marin County provides a critical greenbelt of open space, scenic vistas, and wildlife habitat. In addition to serving the residents of Marin County by helping to preserve the agricultural history and protecting critical salmon spawning grounds, this project serves local area travelers and tourists that visit west Marin to enjoy its unspoiled landscape, and incredible scenic values. Preserving the natural resources of this site and protecting it from development furthers these values.
  8. **Sea level rise vulnerability:** The Gallagher's ranch is not located along or near the shoreline. While it does contain approximately two miles of the Lagunitas Creek, only the lowest reach of the creek on the property is tidally influenced. Thus, the ranch is not expected to be significantly impacted by sea level rise.

#### **Additional Criteria**

9. **Urgency:** The Gallagher Ranch was listed for sale in 2012, and has received several over-market-rate offers. The LLC ownership has, for the time, agreed to forego selling the property in order to sell an easement to MALT. However, if MALT is unable to complete the transaction by October 2015, the property will be sold on the open market. The property is not covered by a Williamson Act Contract and would likely be quickly converted to non-agricultural uses.

10. **Resolution of more than one issue:** Acquisition by MALT of an easement will protect the property from possible development of up to five estates, maintain a viable agriculture practice, and protect critical riparian and salmonid habitat on Lagunitas Creek.
11. **Leverage:** See the “Project Financing” section above.
14. **Readiness:** All parties are poised to complete the project within four months following Conservancy authorization: an appraisal is completed; the LLC owners agree to pursue an easement sale instead of selling the property on the open market; and MALT has signed an option agreement to complete the transaction by October 2015.
15. **Realization of prior Conservancy goals:** See “Project History” above.
17. **Vulnerability from climate change impacts other than sea level rise:** Climate change is expected to cause increased instances of severe weather, including severe flooding and prolonged droughts, in this area of California. Several acres of the ranch located closer to Lagunitas Creek are in the FEMA flood zone. Due to the well-preserved and vegetated creek banks on and upstream of the ranch and extensive restored wetlands downstream of the ranch, no debilitating impacts from climate-change-induced flooding are anticipated on the Gallagher Ranch. An easement would prevent land conversion – which would likely increase surface flow and erosion to the creek – and maintain the ability of this reach of Lagunitas Creek to handle increased flows from storms.
18. **Minimization of greenhouse gas emissions:** The project is not expected to result in any increased greenhouse gas emissions, as it involves only a transfer of interests in land, which will continue to be operated as a cattle grazing and hay silage operation. The project could directly avoid an increase in greenhouse gas emissions that would occur if the ranch was converted to a vacation retreat or estate home. Additionally, once the property is protected by a MALT easement, it would qualify for participation in the Marin Carbon Project, which seeks to sequester carbon emissions by implementing a series of ranch management practices.

#### **CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:**

The acquisition by MALT of a conservation easement on the Gallagher Ranch is consistent with the *County of Marin, Unit II (Northern Marin) Local Coastal Plan* (LCP). The local coastal program policies of the LCP include alternative methods of preserving agricultural land (found at Agriculture Chapter, Item 7), which provides that the “County strongly supports the objectives of the Marin Agricultural Land Trust to protect agricultural lands through . . . purchase . . . of conservation easements on agricultural lands.” By acquiring a conservation easement over the Gallagher Ranch, this project will achieve the above stated objectives.

Additionally, MALT’s agricultural conservation easement program is part of an overall coordinated effort with local government to preserve Marin County’s agricultural industry and agricultural land and has the support of the Marin County Board of Supervisors, the Marin County Resource Conservation District, Marin County Farm Bureau, and other local non-profit organizations. The County of Marin supports the protection and preservation of agricultural land uses, agricultural land, and open land through Objectives, Policies, and Implementation Programs as expressed in the Natural Systems and Agricultural Element of the Marin



Countywide Plan adopted November 6, 2007, including, inter alia, the preservation of agricultural lands and resources by agricultural conservation easements (Goal AG-I, Policy AG.1.2 and Implementing Program AG-1.d and AG-1.1). Further, Marin County has enacted a Right-to-Farm ordinance, Marin County Code Chapter 23.03, the policy of which is to "conserve, protect, enhance and encourage agricultural operations within the county" and upholding the Right-to-Farm ordinance is one of the Implementing Programs of the Goals of the County Wide Plan (AG-1.j). (See also Cal. Civ. Code Section 3482.5). The project is also consistent with the Natural Systems and Agriculture component of the County's proposed update to the Marin County Local Coastal Plan. (Marin County Board of Supervisors, Proposed Local Coastal Plan (adopted July 30, 2013) p. 11.) The draft policies "seek to preserve viable agriculture as a permanent part of the fabric of coastal Marin for the benefit of residents, visitors, and the environment itself." (Id., p. 13.) The draft Plan's stated policy is to "[p]rotect agricultural land, continued agricultural uses, family farming, and the agricultural economy."

**COMPLIANCE WITH CEQA:**

Acquisition of a conservation easement over the Gallagher Ranch is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under 14 Cal. Code of Regulations Section 15325 because it involves the transfer of ownership interests in land to preserve open space and allow for continued agricultural use of the property. Staff will file a Notice of Exemption upon Conservancy approval.